

When the legal incidence of a tax is on the consumer, it is not considered to be part of the "selling price" of the tangible personal property for the purpose of calculating Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.445. (This is a GIL.)

January 30, 2004

Dear Xxxxx:

This letter is in response to your letter dated January 14, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I think you are getting confused, ABC is considered a Producer of Aviation Fuel under the Federal section-4101, which means the Federal tax, doesn't attach when ABC makes the purchase, it attaches when I sell the fuel.

Therefore, we do not even obtain a refund from the Federal Government the jet fuel as our opinion states we only collect it from our end user customers.

What is the next step to get a letter ruling?

When the legal incidence of a tax is on the consumer, it is not considered to be part of the "selling price" of the tangible personal property for the purpose of calculating Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.445. What you need to provide is documentation that clearly indicates that the legal incidence of the federal tax is imposed upon your customer and not imposed on you, the producer. If this is the case, then you do not have to include the tax in your selling price.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote  
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